

**Agenda Item: 12-4**  
**Meeting Dates: August 11 and 12, 2004**

**CALFED BAY-DELTA PROGRAM MULTI-SPECIES CONSERVATION:  
Reinitiation of Programmatic Consultation for Covered Species.  
Evaluation of Progress Toward Achieving Milestones and Efficacy of  
Environmental Water Account**

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**Description:** This report provides information regarding the reinitiation of programmatic consultation for covered species for the purpose of evaluating progress toward achieving milestones and efficacy of the Environmental Water Account (EWA).

**Recommended Action:** This is an informational item only. No action will be taken.

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**Background**

On August 28, 2000, the Programmatic Record of Decision (ROD) for the CALFED Bay-Delta Program was signed by 13 Federal and State agencies with management and regulatory responsibilities in the San Francisco Bay and Sacramento-San Joaquin Delta Estuary. With the signing of the ROD and attached documents, the agencies achieved programmatic Federal Endangered Species Act (FESA), California Natural Community Conservation Planning Act (NCCPA), and California Endangered Species Act (CESA) compliance for all CALFED Program elements and made program-level regulatory commitments for Delta exports. The reinitiation of consultation described below is necessary to extend programmatic compliance beyond September 30, 2004. This same reinitiation is also necessary to extend program-level regulatory commitments for exports beyond September 30.

Based on the analysis in the Multi-Species Conservation Strategy (MSCS) and the Final Programmatic Environmental Impact Statement/Environmental Impact Report (EIS/EIR), the CALFED Program agencies fulfilled the regulatory requirements for a programmatic evaluation of the CALFED Program as set out under Section 7 of the FESA of 1973, as amended (FESA; 16 U.S.C. 1531 et. seq.), and under the NCCPA (California Fish and Game Code, Section 2800, et. seq.) As a result of meeting those requirements, three regulatory documents were issued concurrently with the ROD:

(1) a programmatic biological and conference opinion (1-1-00F-184) by the U.S. Fish and Wildlife Service (USFWS); (2) a programmatic biological opinion by the National Marine Fisheries Service (NMFS); and (3) a programmatic Natural Community Conservation Plan (NCCP) Approval by the California Department of Fish and Game (DFG).

The programmatic biological opinions and the NCCP Approval contained a set of 119 “milestones.” The milestones are a discrete set of actions that are intended to be carried out during the CALFED Program’s Stage 1 (the first 7 years of the 30-year program). These actions are derived from the Final Programmatic EIS/EIR technical appendices, including the MSCS and program plans for the Ecosystem Restoration (ERP) and Water Quality Programs. The MSCS provides a program-level evaluation of the CALFED Program under FESA and NCCPA, just as the Final Programmatic EIS/EIR provides a program-level evaluation of the CALFED Program under National Environmental Policy Act and the California Environmental Quality Act.

USFWS, NMFS and DFG developed the milestones to ensure that the MSCS, ERP and Water Quality Program are carried out in a manner and level adequate to sustain programmatic FESA, NCCPA, and CESA compliance for all CALFED Program elements. In the CALFED Program ROD, USFWS, NMFS, and DFG committed to reinitiating FESA Section 7 consultation no later than 180 days before September 30, 2004, to evaluate progress toward achieving milestones and the efficacy of the EWA. This commitment was reiterated in the USFWS August 2000 biological opinion as a reinitiation statement. Biological opinion(s) resulting from reinitiating consultation may extend programmatic FESA Section 7 permitting beyond the current expiration date of September 30, 2004. DFG will also review the prepared materials for consistency with its programmatic Natural Communities Conservation Plan. DFG will document its conclusions about progress toward the milestones and efficacy of the EWA.

A comprehensive assessment package was assembled by multiple agencies in a collaborative effort to evaluate progress to date. The package can be viewed online at <http://www.delta.dfg.ca.gov/envcomp/webintroduction.asp>. This assessment package reinitiates formal consultation under Section 7 of FESA of 1973, as amended (FESA; 16 U.S.C. 1531 et. seq.) for implementation of the CALFED Bay-Delta Program. According to the Conservation Agreement regarding the MSCS for the CALFED Bay-Delta Program, “the purpose of the reinitiation is to evaluate the efficacy of the EWA and progress toward achieving the milestones in conserving and promoting the recovery of Covered Species.”

As such, the CALFED agencies are not proposing a new action during Section 7 consultation. Instead, reinitiation of consultation serves as the measure by which the CALFED agencies’ commitments toward achieving milestones and implementing the EWA can be assessed and confirmed. The U.S. Bureau of Reclamation (USBR), on behalf of all Federal CALFED agencies, requested reinitiation of consultation on July 16, 2004 (Attachment 1). The California Resources Agency will represent DFG, California Department of Water Resources, State Reclamation Board, and California Bay-Delta Authority for the purposes of this consultation.

Simultaneous to extending programmatic permitting as described above, program-level regulatory commitments for the Central Valley Project and State Water Project Delta exports may be extended as described in the Conservation Agreement regarding Multi-Species Conservation Strategy signed with the ROD. Signatories to the Agreement acknowledged that program-level regulatory commitments would extend until September 30, 2004, and that an amendment to the Agreement could detail sufficient fishery protection assets that would be available after September 30, 2004.

The CALFED Ecosystem Restoration Program implementing agencies are providing a 30-day period, ending August 16, for stakeholders to provide supplemental data to assist in assessing the progress toward achieving milestones and the efficacy of the EWA. Supplemental data should be submitted to [erpinputs@calwater.ca.gov](mailto:erpinputs@calwater.ca.gov). At the end of that 30-day period the implementing agencies will supplement the comprehensive assessment package appropriately.

### **Attachments**

Attachment 1- USBR Letter Requesting Reinitiation

### **Contact**

Dan Castleberry  
Deputy Director, Ecosystem Restoration

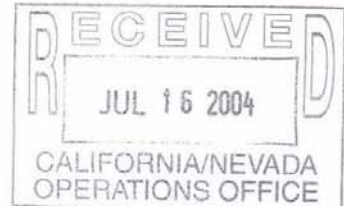
Phone: (916) 445-0769



IN REPLY  
REFER TO:  
MP-120  
PRJ-5.00

## United States Department of the Interior

BUREAU OF RECLAMATION  
Mid-Pacific Regional Office  
2800 Cottage Way  
Sacramento, California 95825-1898



JUL 16 2004

Mr. Steve Thompson  
Manager, California/Nevada Operations Office  
U.S. Fish and Wildlife Service  
2800 Cottage Way, Suite W-2606  
Sacramento, CA 95825-3901

Subject: Request for Reinitiation of Formal Section 7 Consultation to Evaluate the Efficacy of the Environmental Water Account (EWA) and Progress Toward Achieving the Milestones in Conserving and Promoting the Recovery of Covered Species

Dear Mr. Thompson:

On behalf of the Federal CALFED Bay-Delta Program (Program) agencies, the Bureau of Reclamation is requesting reinitiation of formal consultation under Section 7 of the Endangered Species Act (ESA) of 1973, as amended (ESA; 16 U.S.C. 1531 et. Seq.), on continued implementation of the Program. This request is in compliance with 50 CFR 402.16 regarding requests for reinitiation of formal consultation under ESA.

The State of California's Resources Agency will represent the California Department of Fish and Game, California Department of Water Resources, State Reclamation Board, and California Bay-Delta Authority for the purposes of this consultation.

The CALFED agencies are not proposing new Program actions. Instead, as stated in the Conservation Agreement Regarding Multi-Species Conservation Strategy (MSCS), "*the purpose of the reinitiation is to evaluate the efficacy of the Environmental Water Account (EWA) and progress toward achieving the Milestones in conserving and promoting the recovery of Covered Species.*" Completion of this consultation will serve as a measure by which the Program commitments toward milestones and the EWA can be assessed and confirmed.

The enclosed comprehensive assessment package (Draft Reinitiation of Consultation: Milestones Assessment CALFED Bay-Delta Program, Appendix A: Multi-Species Conservation Strategy Milestone Progress Summaries and Project Linkages, Appendix B: Evaluated Project Descriptions and Multi-Species Conservation Strategy Milestone Linkages) was compiled by multiple agencies in a collaborative effort to evaluate the progress to date. Since CALFED Program level regulatory commitments expire on September 30, 2004, your expedited review of

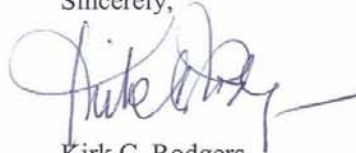
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of the Environmental Water Account and Progress Toward Achieving the Milestones  
in Conserving and Promoting the Recovery of Covered Species

this information and completion of the consultation (new or amended biological opinions) would  
be most appreciated.

It is also understood that the CALFED Ecosystem Restoration Program (ERP) Implementing  
Agencies (U.S. Fish and Wildlife Service, National Marine Fisheries Service, and the California  
Department of Fish and Game) will provide a 30-day period, beginning from the date of this  
letter, for stakeholders and the ERP's Science Board to provide supplemental data to assist in  
assessing the progress toward achieving milestones and the efficacy of the EWA. At the end of  
that 30-day period the implementing agencies will supplement the comprehensive assessment  
package appropriately.

Mr. Allan Oto, Special Projects Officer, is Reclamation's point of contact regarding this request.  
He may be reached at 916-978-5024. Contact with the other Federal co-lead agencies should be  
made through Darrin Thome at 916-414-6533.

Sincerely,



Kirk C. Rodgers  
Regional Director

Enclosure

Identical Letter Sent To

Mr. Rodney R. McInnis  
Regional Administrator  
Southwest Regional Office  
National Marine Fisheries Service  
501 West Ocean Boulevard, Suite 4200  
Long Beach, CA 90802-4213

cc: Ms. Gale A. Norton  
Secretary  
Department of the Interior  
1849 C Street, NW., Room 6156  
Washington, D.C. 20240

Mr. John D. Buffington  
Western Regional Director  
U.S. Geological Survey  
901 First Avenue, Suite 704  
Seattle, WA 98104

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of the Environmental Water Account and Progress Toward Achieving the Milestones  
in Conserving and Promoting the Recovery of Covered Species

Mr. Mike Pool  
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Mr. Charles W. Bell  
State Conservationist  
U.S. Natural Resources  
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Mr. Mike Chrisman  
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Mr. Patrick Wright  
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California Bay-Delta Authority  
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Ms. Ruth G. Coleman  
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Mr. Lester Snow  
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Mr. Ryan Broddrick  
Director  
California Department of Fish and Game  
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Ms. Betsy Marchand  
President  
California Reclamation Board  
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Ms. Margit Aramburu  
Executive Director  
California Delta Protection Commission  
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Mr. Darryl W. Young  
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of the Environmental Water Account and Progress Toward Achieving the Milestones  
in Conserving and Promoting the Recovery of Covered Species

Mr. William Travis  
Executive Director  
San Francisco Bay Conservation  
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Mr. Terry Tamminen  
Secretary  
California Environmental Protection Agency  
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Mr. Arthur G. Baggett, Jr.  
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California State Water Resources  
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Ms. Diana Bonta  
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California Department of Health Services  
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Mr. A. G. Kawamura  
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California Department of Food  
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Sacramento, CA 95814